R.O.C.No. 1213/53.C1.

From

Sri. R. Jayaram Ayyar, M.A.,B.L.,
Registrar, High Court
Madras.

To

The Secretary to Government,
Home Department,
Fort. St. George, Madras.
(With enclosures)

Dated: 10th APRIL 1953.

Sub: Petition - Petition of Sri. K. Abdulla, Clerk, District Munsif's Court, Hosdrug - for exemption from appearing for the Service Commission, examinatic and for regularisation of Services.

.....

I am directed to forward for orders of Government a copy of petition dated 9..2..1953 from Sri. K. Abdulla, Clerk, District Munsif's Court, Hosdrug on the subject cited.

2/ The petitioner was first appointed as temporary clerk on 13..9..1950 and the concurrence of the Service Commission was obtained for the continuance of his temporary appointment until a regular appointment could be made. Under the rules in force at the time of his first appointment, he possessed the requisite educational qualifications for Muslims having obtained 37% in English as against 35% prescribed by the rules, (Please see G.O. 2131 Public (Service) dated 12.9.1945. He appeared for the Service Commission examination in 1950 but was unsuccessful. He again applied in 1952 but his application was returned on the ground that the marks obtained by him in

p.t.o.

the S.S.L.C. examination were not sufficient to make him eligible to sit for the competetive examination. This was presumably because the educational concessions till then extended to Muslims were restricted, in G.O. 2186 Public (Services) dated 23..8..1951, to Scheduled castes and Scheduled Tribes.

3 Unless the petitioner is selected by the Service Commission he cannot be continued in service except so long as Service Commission candidates are not available. But as rules stand at present he cannot sit for the examination. The petitioner will also complete 25 years of age on 7..5..1953.

4 The Honourable the Judges therefore recommend that the rules relating to age and educational qualifications may be relaxed in his favour so as to enable him to sit for the Service Commission examination. The S.S.L.C. and the Service register of the petitioner are enclosed.

Yours

Jayaram

REGISTRAR

CJn/11.4.

dated 9..2..1953

Copy of the Letter from Sri. K. Abdulla, Clerk, District Munsif's Court Hosdrug to the Registrar, High Court, Madras (through proper Channel

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1. I beg to submit the following few lines for your kind consideration and favourable orders.

2. I am at present working as a Lower Division Clerk under 9 (a) (1) rules in the District Munsif's Court, Hosdrug. In this office I have put in about 1½ years of service. Before joining this office, I had previously worked as clerk in the Dt. Munsif's Court, Kasaragod for about 6 months. Therefore, up to this day, I have a service of 2 years in the judicial department. Since I have worked in different sections I have a thourough knowledge of all the work in this department.

3. I am still working as a temporary clerk and my services have not been regularised since I could not get myself selected by the Service Commission.

4. I had appeared for the Service Commission Examination in the year 1950, but I was not lucky enough to be selected that year I again remitted the examination fees in the next year, i.e. 1952 but the application together with my certificates were returned to me on the ground that the marks obtained by me at the S.S.L.C. Public Examination (were) not sufficient to make me eligible to sit for the competitive examination.

5. The following marks were obtained by me at the Public Examination held in 1948:-

English .. Second Language (Malayalam)	..	37 (Thirtyseven) 50 (Fifty)
Ele. Mathematics.	..	42 (Forty two)
Ele. Science	..	56 (Fifty Six)
Outlines of History of England & India and Geography.	..	38 (Thirty Eight)
C. Physics..	..	32 (Thirty Two)

(I had obtained 47 marks in C. Pysics in the S.S.L.C. Examination held in 1947)

6. Since there was concession for backward classes for Service Commission Examination in 1951 and I was officiating as Clerk having been appointed previously thereto. there was no

necessity for me to appear for the Examination again to make up the marks in any subject. My appointment as clerk still continues and any change in the rules of eligibility for appointment as Clerk effected subsequently cannot apply in my case and I should be deemed to be exempted from the operations of such rules subsequently enacted.

7. My date of birth is 7-5-1928 and I will be completing my 25th year on 7-5-1953. It will not be possible for me to seek a job in the Government service after completing the 25th year and on account of this fact also I humbly request that my pitiable position may be taken into consideration while dealing with this humble petition.

8. Now that all concessions have been withdrawn and as a result I am not eligible to appear for the competitive examination conducted by the Madras Public Service Commission. According to the amended rules now in force, I should not have been compelled to qualify myself after appearing again for the S.S.L.C. Public Examination to be eligible for holding a clerical post in the Madras Govt. Service for the reasons mentioned in the previous paragraph;

9. Therefore, taking into consideration the long service I have put in in this department and also of the experience I have gained in the office work, I humbly request that I may be exempted from appearing for the Service Commission Examination and my service may be regularised in the Judicial Department.

10. For which act of kindness I shall ever remain thankful

Sd. K.Abdulla
Clerk, District Munsif's Court
Hosdrug.

CJn/

-/TRUE COPY/-

HIGH COURT,
Madras. 11.4..1953.

SUB. ASSISTANT REGISTRAR(ADM. DEPT.,)

CJn/11.4.

55

Copy of Letter No. 8000-C3/50-2 dated 10-1-1951 from the Secretary Public Service Commission, Madras to the District Judge of South Kanara.

Subordinate Services - Madras Judicial Ministerial Service - Clerk - Temporary appointment - Continuance beyond three months - Commissionss concurrence - Your letter Dis. No. 15/1951, dated 2..1..1951.

.....

I am to say that the Commission agree to the continuance beyond three months of the temporary appointment of Janab K. Abdulla as clerk until a regular appointment can be made.

Sd. xxxxxx
Sheristedar.

-/TRUE COPY/-

SUB. ASSISTANT REGISTRAR,
ADMINISTRATIVE DEPARTMENT

High Court,
CJn/-11.4. Madras. D/11.4.

Copy of the Letter Dated 4..3..1953 from Sri. K. Abdulla, Clerk, District Munsif's Court, Hosdrug to the Principal District Munsif Hosdrug.

Sub: Application dated 9--2--1953.

Ref: High Court's R.O.C.No. 1213-C1 dated 19..2..1953 and District Court's endorsement Dis. 1209/53 dated 24--2--1953.

1. With reference to the Government orders referred to in para 6 of my petition, I submit a printed copy of the instructions to candidates supplied by the secretary, Madras Public Service Commission, while appeared for the examination held by the Commissio in the year 1950, and I appeared for the examination under Register No. 8795 of the Commission.

2. Although I was a temporary clerk, I was permitted to continue as per the concurrence of the Commission in its letter No. 8006/C -3/50-2- dated 10--1--1951. In a subsequent letter No. 6580-C3/51-2 dated 17--10--1951 the commission has stated that I could be continued to act as clerk and that no further concurrence therefore, was necessary.

3. As per the G.O.Ms. No. 332 Public (Services) dated 9-2-1951 the concession for backward classes for appearing for the examination to be held by the Commission was extended until 31-12-1955. I belongs to a Muslim Mopla community which was included in the

p.t.o.

(X) 4. .. I submit that-if opportunities are given to me to appear and pass the examination prescribed in G.O.No. 2929 Public (Services) dated.5-10-1944, allowing me to continue in Service, I will appear for the same and get myself qualified.

Sd. K.Abdulla.

-/TRUE COPY/-

Sub. Assistant Registrar, Adm. Dept.,

High Court, Madras.
Dated. 11.4..1953.

CJn/11.4.

Issued 9/53

(Cen 78332/52) G.O. Ms No. 1959 dated 7-8-53

Establishment - South Kanara dist. - Abdulla, Sri K, Clerk Dt. Munsif's Court, Hosdrg. - Min. genl. educl. qual and age limit - Relaxation - Proposal Negatived

Read

From the High Court, No. Cen. 1243/53 G dt 10.4.53

ORDER:

The Govt. do not see sufficient justification to relax the rules relating to the minimum general educational qualification and age limit in favour of Sri K. Abdulla, clerk Dt. Munsif's Court, Hosdrg. He should be informed accordingly.

2. The S.S.L.C. and the Service Register of Sri Abdulla are returned to the Dt. Judge, South Kanara. He is requested to

B/

acknowledge mein
receipt.

A/11.6.53

Rs 1/- 10.6.53

Hd (Misc.)
AO. (S&Lc. Rules)
(S.A.)

To

The Registrar, High Court
Madras

Dt. Judge, South
Kanara
(with S&Lc and
S.R) by R.P.

~~B/~~ (copy for S.F)

order dt (CBE 10.7.53)

Encld.
62
dt 19.6.53

C.F. 32 (a)—5? 184,468—15-11-52.

Judicial Department | Received ____ Registered 11

From (Name) Sri P.T. Raman Nayar, I.C.S.,

Designation District Judge of South Kanara,

Station Mangalore.

To The Secretary to Government, Home Department, Government of Madras, Madras.

ASSISTANT SECRETARY TO GOVERNMENT HOME DEPARTMENT 29 JUN 1953

Enclosures: Dis. No. 3438 of 1953, dated 26th June, 1953.

Sir,

130145

Sub:-- Establishment - South Kanara district - Abdulla, Sri K., Clerk, District Munsif's Court, Hosdrug - Minimum general educational qualification and age-limit - Relaxation - Proposal - Negatived.

Ref:-- G.O.Ms.No.1959 of Home Department, dated 17-6-1953.(with enclosures).

- -- -

The S.S.L.C. and the Service Register of Sri K. Abdulla that were sent to this Court along with the Government order referred to above, have been received.

Yours faithfully,

District Judge.

Home (Ests)

Subs. for perusal. May be lodged and filed with (B).

29/6/53

25-6-53

Parties

25/6/53

29/6

Home (Cts I)

(C.C. No. 78332 dt 5/1/53) Establishment – South Kanara district – Abdulla, Sri K. clerk Dr. Munsif's Court Hosdrug – Minimum genl. educational qualification and age limit – Exemption of – Proposal

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From the High Court Roc No. 1213/53 pp 1-2 of c.l. dt 10.4.53

—•—

This file deals with the recommendation of the High Court (p 2 of) that Sri K. Abdulla, clerk, Dr. Munsif's Court, Hosdrug may be exempted from the min. genl. educational qualifica and age limit to enable him to (to –) sit for the Public Service Commission Examination.

2 Sri Abdulla was first appointed as temporarily as a clerk in the Judicial Dept. in the D.M.C. Kasaragod and till 11.4.51 & again on 16.6.51 in D.M.C. from 12.9.50. and he shall continues. (Ch. pp 4-5 of S.R. below) He has so far put in a total service of about 2½ years. He has passed the S.S.L.C. but has not secured qualifying mark in English ~~on whose below~~. ~~He is also over aged as he has completed~~ ~~25 years of age on 7.5.53.~~ The mark obtained by him in one or other S.S.L.C. Exam. for which he appear are as follows. (pp 13-14 of S.S.L.C below)

		Min. required Percentage Before 23.9.51	After 23.9.51
English –	37	35	40
Malayalam –	50	35	40
Ele. Maths –	42	35	35
Ele. Science –	56	30	30
Histy. Geography –	38	30	30
C. Physics	47	35	35

V/

The petitioner belongs to the ~~backward~~ 'Muslim' community. Prior to the issue of G.O. No 2186, Pub (Ser), d 23.8.1951, a candidate belonging to that community among others was eligible for appointment to any Subordinate service if he had ~~not~~ obtained not less than ~~among others~~ 35% in English, in the language in Group A and also in one other Group subjects. Part later, in the G.O. referred to the above "concession was restricted to only to the Scheduled Castes and Scheduled Tribes. Sri Abdulla appeared for the Public Service Commn Examination in 1950 but he did not succeed. He again ~~appeared~~ applied in 1952 but he was not admitted to the examination on the ground that the marks obtained by him in the S.S.L.C. Exam. were not sufficient to make him eligible to sit for the Exam. as a result of the withdrawal of the concession reg. min. genl. educational qualification only to the Scheduled Castes and Scheduled Tribes. The petitioner's case is that, since there was the concession for ~~the backward~~ Muslims classes prior to 1951 and as he was ~~offi~~ acting as a temp. clerk already, there was no necessity for him to appear for the Examination again to make up the marks in any subject. and He has also stated that as his appointment as clerk still continues, any change in the rules of eligibility for appointment as clerk effected ~~not~~ subsequently cannot apply

para 6, p1 cf

(G1)

* Scheduled Caste Scheduled Tribes

A)

para 1 cf (G)

Para 2 cf & para 4, p2 cf

Z, p1 cf (G)

para 6, pp3-4 cf

cf para 4 cf

in his case and he should be deemed to be exempted from the operation of rule subsequently issued. He has therefore requested that he may be exempted from appearing for the Service Commn. Examination and that his appointment in the Judl. Dept may be regularised. From his subsequent statement in his petition to the High Court at A on p8 of., it would appear that he is prepared to appear and pass in the Group IV Test held by the Madras Public Service Commission, if he is continued in service and allowed to appear for it ~~is by giving him~~ exemption

4. For the reasons stated in paras 3-4 on pp 1-2 of. the High Court has recommended that the rules relating to age and educational qualification may be relaxed in his favour so as to enable him to get fit for the Public Service Commn. Examination

5. The posts of l.d. clerks in the Judl. Deptt. are included in ~~the~~ category 5 of class IV of the Madras Judicial Ministerial Service and appointment to the post is by anyone of the methods specified below :-

"i Promotion from a post on the next lower rate or scale of pay in the same category or in any other category in class IV of the Madras Judl. Ministerial Service ; or if no qualified and suitable

member is available for such promotion, promotion from a post on the next lower rate or scale of pay further below; and from Asst. Supdt. of Copyists, Examiners, Amins, Readers and copyists; or direct recruitment; or for special reasons recruitment by transfer from any other service. } p2(2), p3 of III

6. Under rule 15 of the rules the candidate should possess the min. genl. educational qualification as specified in Schedule II of the rules. As already stated, Sri Abdulla possessed the min. genl. edul. qualfn so long as the Concession regarding that qualfn was extended to the Muslim backward community to which he belongs; but after the concession was restricted only to Scheduled Castes and Scheduled Tribes in the G.O. at (G), he became unqualified on account of a deficiency of 3 marks scored by him in English in the SS.L.C Exam. He has also since become over-aged for appointment in subordinate service; as he has completed 25 years of age on 7.5.53. } p2 of p288, Rules III; p308 ibid

~~Relaxation of rules is generally granted in cases of hardship~~

7. The High Court has not stated whether there is any dearth of qualified clerks in the Judl. Deptt. and whether the other avenues prescribed in the rules for recruitment to the post of clerk

have been explored.

8. Relaxation of rules is granted generally in cases of hardship caused by a strict application of the rules. In this case the petr was qualified to appear for the P.S.C. Exam. before the issue of the G.O. at (G) and but for this order, he would have had a second chance to appear for the Exam. when he applied for it in 1952. ~~As the rule~~ The deficiency in the marks scored by him in English is only 3 now

9. In a similar case relating to Sri K. Achutha Menon, temp. clerk, D.M.C., Trichur, he was exempted from the possession of the min. genl. educl. qualification and was directed to appear for the P.S.C. Examination if he desired to be appointed regularly Please see G.O. Ms No. 3185, Home, dt 5.8.49.

10. In the above circumstances, orders whether the High Court's recommendation to relax the rules relating to min. genl. educl. qualfn. and age in favour of Sri Abdulla will be accepted, so as to enable him to opt for the P.S.C. Exam.

11. Pub (Ser) may see before circulation.

Rs 11-5-53

(1) Is there a similar case given in ~~N~~ G.O. strike

11/5/53 (2) Do the special reasons (non particularised in N G.O. strike) hold good here?

12/5

Submitted that the two cases are similar in the following points:

(a) the petitioners, both of whom belong to the same category (category 5) in Class IV of the Madras Judl. Ministerial Service have passed S.S.L.C. Exam. but have not secured qualifying marks in the ~~S.S.L.C.~~ Examination; and

(b) Bothe have put in service of about 2½ years in the Judl. Deptt. on a temporary capacity.

2. With reference to query (2) on the prev. page, it is submitted that the special reasons (regarding non-participation in the N.G.O.S' Strike) given in the case at (W) do not hold good in this case; as a matter of fact the petitioner in this case joined the deptt. long after the strike was over. It may however be mentioned that in the case in (W), not only the non-participation by the clerk in the N.G.O.S' strike but also his long service and experience in the deptt. and the High Court's recommendation on that account weighed with the Govt. in granting the exemption. cp-portions marked 'M' on p.2 c.f. of (W) and N on p.4 n. ibid.

3. Submitted for orders.

His Excellency appointment should not have been indefinitely when he was not fully qualified. His long service need not therefore be a consideration in his favour. In (W) the proposal of the Govt was to reject the recommendation but the Minister considered that the reason given by the High Court namely his non-participation in the N.G.O strike & long service justify the acceptance of the recommendation. Whether such reasons does not exist here & while there is no strong ground for multiplying such instances when there should be adequate number of duly qualified candidates

14/5/53 A D/S

Hdqrs-78332 Ots I/53-1

25/5/53

M

ASSISTANT SECRETARY TO GOVERNMENT 26 MAY 1953 CHIEF SECRETARIAT

13/5/53 13/5/53

21/5/53 Sub (Sec).

CT (78332/53)

1

Public (Services) Deptt

24/5/53

The notes from p. 1 ante may be perused. The views expressed by Home at M on p. 6 ante may be concurred in in this deptt. and the file returned to that deptt.

SD
1653

Sd/-
3.6.53

SD
2.6.53

Home

Pub (Ser) U.O.
25/2/53-1
3.6.'53

Home (Courts I)

SUMMARY

This file deals with the recommendation of the High Court that Sri K. Abdulla clerk, Dt. Munsif's Court, Hosdrug may be exempted from possessing the minimum general educational qualifica and from the age-limit so as to enable him to appear for the Public Service Commission Examinatio The case has been examined in this Deptt.'s note on pp 1-6 above

2. As there should be adequate number of qualified candidates available for appointment this Deptt. consider that there is no strong ground for exempting Sri Abdulla from the prescribed qualifications Candidate, as recommended by High Court. Public (Ser) agree this Deptt.

3. A draft order is subd. Ma circulated to M(Law) for appro

SD
10653 PM
10653

P Ramiah
11.6.53

Sd/- D. Sundaralingam
13.6.53

K.P. Kuttan. Nair
15-6-53

M(Law).

pagl

p7 ante
11791

16 JUN 1953
HOME DEPARTMENT

Cf M, blank

16 JUN 1953
HOME DEPARTMENT

16 JUN 1953
HOME DEPARTMENT

(Tornou as GO Ms 1959 Home dr 17-683)

Pasta 1ª cf

Pasta 9 cf